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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,179	08/01/2001	Joseph Michael Bennett		4496
34457	7590	06/22/2005		
PHOENIX TECHNOLOGY LAW GROUP, LLC			EXAMINER	
BOX 258				NGUYEN, DINH Q
3370 NORTH HAYDEN ROAD, NO. 123			ART UNIT	PAPER NUMBER
SCOTTSDALE, AZ 85257				3752

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/920,179	BENNETT, JOSEPH MICHAEL
	Examiner	Art Unit
	Dinh Q. Nguyen	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 21-55 is/are pending in the application.
- 4a) Of the above claim(s) 48-55 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 21-47 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Applicant's remarks of the finality of the rejection of the last Office action are persuasive and, therefore, the finality of that action is withdrawn.
2. The indicated allowability of claims 26, 35, 37, 45, 47 is withdrawn in view of the newly discovered reference(s) to Johnson, and Crouch. Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 21-47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "single unit" does not disclose in the specification for the elected Species II of Figure 2.

5. For the purpose of this Office action, the claims will be examined as best understood by the examiner.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 21-23, 27-32, 36, 38-42, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Bennet.

Bennet discloses a hazardous control system comprising: a hazard control material 5, the shatterable single container 1 (figure 3) that conforms to the fluid line of the fuel tank that protruding through holes 7 (see column 4, lines 58+), the container 1 formed by 2 single face sheets 2.

8. Claims 21-23, 27-32, 36, 38-42, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al.

Adams et al discloses a hazardous control system comprising: a hazard control material 14, the shatterable single container 12 (see column 4, lines 40+) that conforms to the fluid reservoir (see column 2, lines 41+).

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 24, 26, 33, 35, 37, 43, 45, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennet or Adams et al. in view of Johnson.

Bennet or Adams et al teaches all the limitations of the claims except for the shatterable container with first material has a different brittleness than the second

material. However, Johnson discloses a hazardous control system with a shatterable container 6 having an outer layer first material of thin strip impervious material, an inner layer of second material of a plurality of scorings 29 (see figures 1 and 2, and page 2, lines 4+). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Bennet or Adams et al with a shatterable container wherein the first material has a different brittleness than the second material as suggested by Johnson. Doing so would provide an effective way to fight fires (see page 1, lines 10+).

11. Claims 25, 34, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennet or Adams et al. in view of Crouch.

Bennet or Adams et al teaches all the limitations of the claims except for a breaking element. Crouch discloses a hazardous control system with a shatterable container 36 and a breaking element 42/44 for breaking the container 36. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Bennet or Adams et al with a breaking element. Doing so would provide an effective way to fight fires (see page 1, lines 25+).

### ***Response to Arguments***

12. Applicant's arguments filed 6/6/05 have been fully considered but they are not persuasive. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. The limitation "single unit" does not disclose in the specification for the elected Species II of Figure 2. Furthermore, in page 15, line 1+, the Applicant is teaching away from the "single unit".

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Applicant's arguments with respect to claims 21-47 have been considered but are moot in view of the new ground(s) of rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dinh Q. Nguyen  
Primary Examiner  
Art Unit 3752

dqn